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14 UNITED STATES DISTRICT COURT
15 CENTRAL DISTRICT OF CALIFORNIA

16 TICKETMASTER L.L.C., a Virginia
17 limited liability company,

18 Plaintiff,

19 vs.

20 RMG TECHNOLOGIES, INC., a
21 Delaware corporation, and DOES 1
22 through 10, inclusive,

23 Defendants.

Case No. CV 07-2534 ABC(JCx)

Hon. Jacqueline Chooljian

**TICKETMASTER L.L.C.'S
SUPPLEMENTAL BRIEF IN
OPPOSITION TO DEFENDANT'S
MOTION TO COMPEL
PRODUCTION OF DOCUMENTS;
DECLARATION OF RAAQIM
KNIGHT**

Hearing Date: April 22, 2008

Hearing Time: 1:30 p.m.

Location: Courtroom C, 8th Fl,
Spring St.

Pre-Trial Conf.: September 15, 2008

Trial Date: October 1, 2008

Discovery Cut-Off: May 23, 2008

**SUPPLEMENTAL BRIEF IN OPPOSITION TO DEFENDANT’S MOTION
TO COMPEL PRODUCTION OF DOCUMENTS**

Defendant RMG Technologies, Inc.’s (“RMG”) Motion To Compel Production of Documents is much ado about nothing. RMG seeks to “compel” production of (1) documents plaintiff Ticketmaster, L.L.C. (“Ticketmaster”) produced before RMG filed its motion to compel, or (2) documents that Ticketmaster has always been prepared to provide upon entry of a protective order. Indeed, Ticketmaster asked RMG to stipulate to a protective order that is virtually identical to the protective order that was entered in a related case – *Ticketmaster L.L.C. v. Designer Tickets and Tours, Inc., et al.*, C.D.Cal., Case No. CV 07-1092 ABC (JCx). RMG refused to stipulate, forcing Ticketmaster to file a concurrent motion for a protective order. Thus, a substantial portion of this motion is unnecessary and could have been avoided.

Most of the remaining requests raised in RMG’s motion are moot. In its portion of the Joint Stipulation In Support of Defendant’s Motion To Compel (the “Joint Stip”), RMG principally complains that Ticketmaster should produce non-privileged, non-confidential documents that are responsive to Document Request Nos. 18-24, 32, 34-40, 44-45 and 49-50. Ticketmaster produced most, if not all, such documents days before RMG filed its motion. (*See* Declaration of Raaqim Knight attached hereto, ¶ 5.) Indeed, Ticketmaster would have produced the documents sooner, but the requests were so broad that it took seven attorneys and two paralegals six weeks reviewing 407,371 pages of documents, to identify responsive documents, and then to segregate out non-confidential documents that could be produced absent a protective order. (*Id.*, ¶¶ 2, 3, 4.)

Many of the remaining items in dispute relate only to RMG’s recently dismissed antitrust counterclaims. Ticketmaster believes it would be premature to be subjected to extensive discovery regarding claims that are likely to be dismissed (if, indeed, RMG files amended counterclaims at all after reading some of the

1 Court's comments in granting the motion to dismiss). After preliminarily enjoining
 2 RMG from further infringement of Ticketmaster's rights because of its likely
 3 success on the merits (see *Ticketmaster L.L.C. v. RMG Technologies, Inc.*, 507
 4 F.Supp.2d 1096 (C.D.Cal. 2007) it commented as follows when dismissing RMG's
 5 antitrust counterclaims in *Ticketmaster L.L.C. v. RMG Technologies, Inc.* ---
 6 F.Supp.2d ---, 2008 WL 649788, *4, *6 (C.D.Cal. March 10, 2008):

7 The allegations of the ... [antitrust counterclaims] are
 8 hopelessly muddled as to what product market (or
 markets) are at issue here.

* * *

9 RMG should be aware that defining the market in ... [the
 10 way it proposed] will undoubtedly give rise to numerous
 problems in the future...

* * *

11 [M]any of Ticketmaster's arguments as to why RMG's
 12 allegations fail appear well-taken; and there is no need to
 13 examine these arguments in detail unless RMG manages
 14 to identify a proper market. RMG should consider
 Ticketmaster's arguments ... if it chooses to amend its
 counterclaims.

15 New case law affirms that "there is no need to consider" antitrust discovery
 16 in such circumstances. See *U.S. v. Beary*, 2007 WL 2712217, *10 (N.D.Cal. 2007)
 17 (denying motion to compel discovery related to dismissed cross-claim); *Curry v.*
 18 *Strain*, 2008 WL 238958, *1 (5th Cir. 2008) (affirming denial of motion to compel
 19 discovery related to claims that were previously dismissed).

20 Finally, several of RMG's requests seek production of documents relating to
 21 the calculation of Ticketmaster's convenience charges. However, such documents
 22 have no bearing on RMG's liability for its direct and indirect abuse of
 23 Ticketmaster's website, and thus are irrelevant and beyond the scope of permissible
 24 discovery. RMG's novel "offset" theory does not change this fact.

25 RMG's request seeking Ticketmaster's tax documents is similarly improper,
 26 because such documents are not only irrelevant, but extremely sensitive and
 27 confidential. In the spirit of compromise, Ticketmaster is willing to stipulate that
 28 its tax returns do not feature a line item deduction for goodwill lost due to the use

1 of automated devices or the activities of ticket brokers.

2 For all the foregoing reasons as well as those set forth in Ticketmaster's
3 portion of the Joint Stip, the Court should grant Plaintiff's motion

4
5 Dated: April 8, 2008

Manatt, Phelps & Phillips, LLP

6 By: Donald Brown / RK

7 Donald R. Brown
8 *Attorneys for Plaintiff*
TICKETMASTER L.L.C.

DECLARATION OF RAAQIM KNIGHT

I, Raaqim Knight, declare as follows:

1. I am an attorney licensed to practice before all courts of the State of California and before this Court. I am an associate in the law firm of Manatt, Phelps & Phillips, LLP, counsel for Plaintiff Ticketmaster L.L.C. ("Ticketmaster") in this matter. I have personal knowledge of the facts set forth in this Declaration. If called as a witness, I can and will testify competently to all of these facts.

2. Since January 2008, I have led a team of seven attorneys and two paralegals tasked with reviewing documents in Ticketmaster's possession to look for documents that might be responsive to Defendant RMG Technologies, Inc.'s ("RMG") discovery requests. This has necessitated the review of at least 407,371 pages of material, which is the equivalent of 203 boxes of documents.

3. Many documents that are potentially responsive to RMG's requests contain sensitive, confidential information, including trade secrets and technological documents indicating Ticketmaster's methods of detecting and preventing violations of its website's terms of use by ticket brokers. Accordingly, documents must be closely scrutinized to identify and adequately protect the confidential information contained therein. This process is laborious and time-consuming.

4. The review was slowed further by the revelation that RMG would not stipulate to a protective order. RMG's refusal to stipulate was unexpected and necessitated an additional review to segregate confidential documents from the remainder to prevent their production in the absence of a protective order.

1 5. On March 5, 2008, I met and conferred with counsel for RMG, David
2 Tarlow, regarding Ticketmaster's responses to Defendant RMG Technologies,
3 Inc.'s Request for Production of Documents (Set One), pursuant to L.R. 37-1.
4 During that meeting, I informed Mr. Tarlow that I was reviewing Ticketmaster's
5 documents and that Ticketmaster would produce non-confidential responsive
6 documents in approximately two to three weeks. I also informed Mr. Tarlow that
7 Ticketmaster would not produce confidential documents absent an operative
8 protective order.

9 6. On March 28, 2008, days before RMG filed the instant motion,
10 Ticketmaster produced approximately 1,000 pages of responsive non-confidential
11 documents.

12 I declare under the penalty of perjury under the laws of the United
13 States that the foregoing is true and correct, and that this declaration was executed
14 by me on April 8, 2008, in Los Angeles, California.

15 
16 Raaqim A. S. Knight